
Complaint: NDC0623

Committee considering report: Special Governance Committee

Date of Committee: 29 August 2024

Purpose of the Report

To consider the Investigator's report about a complaint received from the then Councillor Steve Masters (*complainant*) in respect of Councillor Ross Mackinnon (*Subject Member*) from West Berkshire District submitted on 23 March 2023.

Recommendations

The Committee is asked to:

- a) consider if they agree with the outcome of the Advisory Panel that took place on 25 June 2024;
- b) identify any disputed facts;
- c) identify any aspects of the report that require further clarification;
- d) agree on a suitable sanction if they agree that a breach of the Code of Conduct has occurred.

Paragraphs of the Code of Conduct that the complaint might relate to:

Failure to adhere to the following Nolan Principles:

- Personal Judgement
- Respect for other
- Leadership

General Obligations:

4.1(a). Councillors and Co-opted members must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.

4.2(a). Councillors and Co-opted members must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.

4.2(f). Councillors and Co-opted members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

1 Monitoring Officer's Report

Introduction

- 1.1 A complaint dated 23 March 2023 was received from the then Councillor Steve Masters (Complainant), concerning an alleged breach of the Code of Conduct by Councillor Ross Mackinnon (Subject Member). At the time, Councillor Masters was a Green Party Councillor representing the ward of Newbury Speen. Councillor Mackinnon is a Conservative Councillor representing the ward of Bradfield and is currently the Leader of the Opposition and Shadow Portfolio Holder for Strategy and Communications, Finance, Corporate Services, Regeneration, Growth and Strategy Development.
- 1.2 The complaint was considered by the Assessment Sub-Committee of West Berkshire Council's Governance Committee on 13 April 2023 where, taking account of the views of the Independent Person, the Deputy Monitoring Officer determined that the matter be dealt with via an informal resolution, namely that the Subject Member issue an apology to the Complainant.
- 1.3 However, the apology was not provided and therefore the complaint was referred for a full investigation by an independent investigator on the basis that the Subject Member does not accept the informal resolution.
- 1.4 Mr Richard Lingard was appointed to investigate the matter on behalf of West Berkshire Council.

2 Procedure

- 2.1 In considering the complaint, Mr Lingard sets out in his report (Appendix A) that he considered the complaint, the Subject Member's response, and associated documentation which included the reproduction of exchanges of posts on social media.

- 2.2 In addition, Mr Lingard interviewed both the Complainant (on 3 April 2024) and Subject Member (on 19 April) via Zoom. He also spoke with three further people, at the Complainant's request. These were serving CouncillorCarolyn Culver and two former councillors, both of whom asked to remain anonymous.
- 2.3 Mr Lingard had available to him West Berkshire Council Code of Conduct for Members.

3 Outcome of independent investigation

- 3.1 In considering the Code of Conduct paragraph 4.1 (a), the independent investigator found that there was evidence of a breach with the Subject Member failing to show courtesy or respect to the Complainant.
- 3.2 In considering the Code of Conduct paragraph 4.2 (a), the independent investigator considered that while the insult used by the Subject Member towards the Complainant was childish and totally inexcusable, he found no breach of this paragraph of the Code.
- 3.3 In considering the Code of Conduct paragraph 4.2 (f), the independent investigator found that there was evidence of a breach as he considered that the Subject Member conducted himself in a manner which could reasonably be regarded as bringing his office and his Council into disrepute.

4 Advisory Panel

- 4.1 The Advisory Panel considered the complaint and the independent assessment. In addition, they benefited from the Investigator's attendance to clarify any points in the assessment and ask questions.
- 4.2 The Advisory Panel concurred with the findings of the independent investigator and therefore referred the matter to the Governance Committee in line with the Constitution.
- 4.3 The Advisory Panel did not form a view on a suitable sanction should the Governance Committee concur with the findings that a breach of the Code of Conduct had occurred.
- 4.4 The Advisory Panel recommended that the following people be invited to attend the Special Governance Committee:
 - (a) Investigator (Mr Richard Lingard)
 - (b) Complainant
 - (c) Subject Member
 - (d) Monitoring Officer

5 Order of Business for Governance Committee

- 5.1 The Governance Committee must consider the information provided as part of the standards complaint that includes:
 - a) The original complaint

- b) The Subject Member's response
 - c) Independent Assessment by Mr Richard Lingard
 - d) Responses from the Complainant and the Subject Member
 - e) Minutes of the Advisory Panel and the recommendation
- 5.2 There is an opportunity for the Complainant or their representative to raise any issue in the Independent Report that they have disputed in their written submission, and they may wish to introduce witnesses on these points.
- 5.3 The Subject Member may make a presentation and they may only raise issues in the report that they have disputed in their written submission.
- 5.4 It will be for the Governance Committee to consider the evidence and representations and shall then make a final determination on the matter.

6 Outcome

- 6.1 Should the Governance Committee determine there is no breach then there will be no further action and the matter will be closed.
- 6.2 Should the Governance Committee determine that there is a breach of the Code of Conduct, then they must consider the sanctions available:
- a) Formal letter from the standards Committee
 - b) Remove from Committee via Group Leader
 - c) Formal censure via motion to Council
 - d) Press release
 - e) Local Resolution

Appendices

Appendix A – West Berkshire Council's Code of Conduct

Appendix B – Complaint and associated paperwork

Appendix C – Response to complaint by the Subject Member

Appendix D – Initial Assessment Notice

Appendix E – Investigator's Report (which includes comments from the Complainant and Subject Member on the report)

Appendix F – Advisory Panel Decision Notice

Appendix G – Sanctions which can be applied